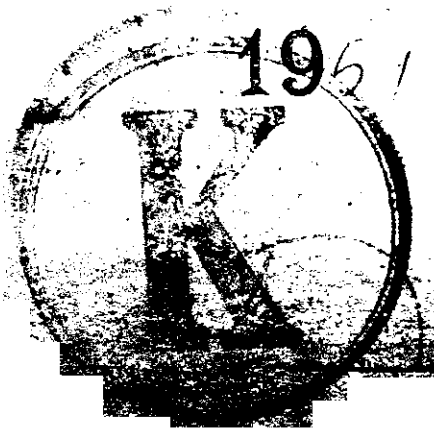




File No. *Municipal Boroughs/51*

Local Dept
BRANCH

Subject: *opinions under the Powers Bay District Municipal Boroughs Act*

2/1/61

Municipal Boroughs/51

45/5

C O N T E N T S.

Legal Department File No. O.Municipal Boroughs/51.

P.No.	R.I./O.No.	Subject.	Pages.
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Opinions under the Bombay Distt.
Municipal Boroughs Act.

1. Q-282
14/7/51. Whether the word "Municipal Taxes"
would include charges for water. 1-2.

24/7/55.60

Legal Department.

Under section 73 of the Bombay Municipal Boroughs Act, 1925 the Municipalities are empowered to impose taxes mentioned in the said section which include a general water rate or a special water rate for water supplied by the Municipality. Section 91(1) of the said Act however provides that a Municipality may, instead of imposing a water rate, fix charges for supply of water according to the quantity used as ascertained by measurement. Sub-section (1) of the said section provides that every amount claimed by the Municipality as due under section (1) as charges, payments or expenses shall for the purposes of Chapter VIII (i.e. for recoveries), be deemed to be, and shall be recoverable in the same manner as an amount due on account of any tax recoverable under the said Chapter. The charge for water supplied to premises by measurement is not therefore the same as water rate which is a municipal tax but only for recoveries it is to be deemed to be a tax. Strictly speaking such charges are not therefore included in the term 'municipal taxes'. (See *Baddock v. Hunt* 1888, 22 Q.B.D. 145 followed in *A.I.R. 1923 Sind 1*).

Sections 91 and 92 are grouped under item (4) in Chapter VII 'as special provisions relating to certain taxes' which shows that such charges were also termed as taxes. Government can therefore contend that the words 'municipal taxes' were used in a wider sense while fixing the rent and the intention was to

to include water charges also. This is evident from the fact that Government are paying Rs.450 P.M. as rent whereas the A.R.P. were paying Rs.300 P.M. as rent plus water charges for the same building before Government rented it. If the matter is however taken to a court of law it is doubtful whether the Government's contention would be accepted by the Court. If possible the claim may be compromised.

Id/-

Additional Secretary to Government.

U.R. to C.S.D., No. G-282,

dated the 14th July 1951.

JPE.25/7/56.4c.